

ORDER NO. 4646

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Tony Hammond, Vice Chairman;
Mark Acton; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Contract 123 (MC2015-52)
Negotiated Service Agreements

Docket No. CP2015-80

ORDER APPROVING AMENDMENT THREE TO
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued June 14, 2018)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ USPS Notice of Amendment to Priority Mail Contract 123, Filed Under Seal, June 1, 2018 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 2535, the Commission approved the Priority Mail Contract 123 negotiated service agreement (Existing Agreement).² On June 1, 2018, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. On June 5, 2018, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. PR Comments at 3. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

² See Docket Nos. MC2015-52 and CP2015-80, Order Adding Priority Mail Contract 123 to the Competitive Product List, June 9, 2015 (Order No. 2535). The contract was later amended. See Order Approving Amendment to Priority Mail Negotiated Service Agreement, March 9, 2016 (Order No. 3144); Order Approving Amendment to a Priority Mail Negotiated Service Agreement, July 5, 2016 (Order No. 3409).

³ See Docket No. CP2015-80, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 5, 2018.

⁴ Public Representative Comments on Postal Service's Request to Amend and Extend Contract 123, June 12, 2018 (PR Comments).

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement is set to expire September 7, 2018.⁵ The Amendment revises the expiration date of the contract to January 16, 2019. Notice, Attachment A at 1. The Amendment also ends volume-based tiered pricing for the duration of the contract and accordingly removes the annual adjustment provision. *Id.*

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the Existing Agreement, as amended, is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The Commission will continue to review the cost coverage of the Existing Agreement, as amended, in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its

⁵ See Order No. 2535 at 9 (setting original expiration date as June 9, 2018); USPS Notice of Extension of Priority Mail Contract 123, June 1, 2018 (revising expiration date to September 7, 2018 pursuant to contract terms providing for up to two 90-day extensions).

review. Notice at 1. The Existing Agreement, as amended, is set to expire January 16, 2019. *Id.* Attachment A at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 123 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the revised expiration date, January 16, 2019.

By the Commission.

Stacy L. Ruble
Secretary